

Amendment and Response

Applicant: N. Lee Rhodes

Serial No.: 09/919,527

Filed: July 31, 2002

Docket No.: 10013111-1

Title: NETWORK USAGE ANALYSIS SYSTEM AND METHOD FOR UPDATING STATISTICAL MODELS

REMARKS

The following remarks are made in response to the Office Action mailed March 28, 2006. Claims 1-47 were rejected. With this Response, claims 37 and 45 were amended and claim 48 has been added. Claims 1-48 remain pending in the application and are presented for reconsideration and allowance.

Claim Rejections under 35 U.S.C. § 102(e) and 103

Claims 1-2, 13, 37-38, and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Dietz et al., U.S. Patent No. 6,839,751 (Dietz).

Further, claims 23 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz in view of Kawasaki, U.S. Patent No. 6,539,375 (Kawasaki). Claims 29 and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz in view of Abounaga et al., U.S. Patent No. 6,460,045 (Abounaga). Claims 2-6, 8-10, 12 and 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz as applied to claims above, and further in view of Steinbiss et al., U.S. Patent No. 6,823,307 (Steinbiss). Claims 7, 11, 14-22, and 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz and Steinbiss as applied to claims above and further in view of Abounaga. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz and Kawasaki in view of Steinbiss. Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz and Kawasaki as applied to claims above and further in view of Abounaga. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz and Abounaga as applied to claims above and further in view of Steinbiss.

Applicant respectfully disagrees that Dietz teaches a method for analyzing network usage data that includes generating a statistical model from a set of usage data records. As such, neither Dietz, nor any of the above-cited combinations that include Dietz, teach or suggest the present claimed invention.

Claim 1 recites a method for analyzing a stream of network usage data. The method includes *generating a statistical model from a set of usage data record events*. A most recent record event is received. The statistical model is updated using the most recent record event by adding the most recent record event to the statistical model. An identifier is

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associated with each record event, including updating only a portion of the statistical model associated with the identifier.

The Examiner asserts that Dietz teaches generating a statistical model from a set of record events, citing column 3, lines 14-33; column 17, lines 35-53; and column 10, line 55 – column 11, line 5. However, at the cited passage of column 17 Dietz describes that data packets themselves are analyzed, not usage data record events. In fact, that same passage in column 17 provides that these same statistical operations are done for each of the data packets and these statistics “may include determining network usage metrics *from* the statistical measures. . . .” (emphasis added)(Column 17, lines 47-48). In other words, at most, Dietz teaches deriving network usage metrics from statistical measurements, but not building statistical models from usage data record events.

Furthermore, because each of the other independent claims, 13, 23, 29, 37, 45, 46, and 48, also recite this feature of generating or defining a statistical model from the stream of network usage data, Dietz does not teach or suggest these claims, either alone or in combination with the other cited references. Dependent claims 2-12, 14-22, 24-28, 38-44, and 47 depend directly or indirectly upon corresponding independent claims 1, 13, 23, 37, 45 and 46. Accordingly, Applicant believes these dependent claims to also be allowable over the art of record.

In addition, independent claims 13, 23 and 29 recite a method that further includes updating only a portion of the statistical model associated with the most recent record event. There is no teaching or suggestion in Dietz for making any adjustment to any statistical model in correlation to only the most recent record events. As such, these two independent claims, as well as their corresponding dependent claims are also allowable for this additional reason.

Finally, with this response Applicant amended claims 37 and 45 as suggested by the Examiner in order to clearly place these claims in condition for allowance. In addition to the reasons given above, amending these claims to include updating the statistical model in accordance with *customer usage* unambiguously places independent claims 37 and 45, as well as the associated dependant claims, in condition for allowance.

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Added Claims

With this Response, Applicant has added claim 48 directed to a method of analyzing network usage data and specifically incorporating features that the Examiner has indicated put the claim in condition for allowance. As such, Applicant believes independent claim 48 is allowable over the art of record.

CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 1-48 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-48 is respectfully requested.

Applicants hereby authorize the Commissioner for Patents to charge Deposit Account No. 08-2025 the amount of \$250.00 to cover fees as set forth under 37 C.F.R. 1.16(h)(i).

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

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Any inquiry regarding this Amendment and Response should be directed to either Steve E. Dicke at Telephone No. (612) 573-2002, Facsimile No. (612) 573-2005 or Tuan Ngo at Telephone No. (408) 447-8133, Facsimile No. (408) 447-0854. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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Steven E. Dicke
Reg. No. 38,431**CERTIFICATE UNDER 37 C.F.R. 1.8:**

The undersigned hereby certifies that this paper or papers, as described herein, are being transmitted via facsimile to Facsimile No. (571) 273-8300 on this 28 day of July, 2006.

By: Steven E. Dicke

Name: Steve E. Dicke